

STATE OF SOUTH CAROLINA
COUNTY OF LAURENS

STATE of SOUTH
CAROLINA,

-v-

MICHAEL CLIFF
EUBANKS,
Defendant.

IN THE COURT OF GENERAL SESSIONS
2017-GS-30-1499 & 1294
2018-GS-30-1205

ORDER DENYING MOTION FOR A NEW
TRIAL

Addy, J.

THIS MATTER ORIGINALLY CAME BEFORE THE COURT for a jury trial on July 31, 2018. Mr. Eubanks was represented by Rauch Wise, Esq. of the Greenwood Bar, and the State was represented by Deputy Solicitor Dale Scott and Assistant Solicitor Julie Kate Keeney. On August 3, 2018, the jury returned a verdict of guilty on the charges CSC with a Minor, First, Second, and Third Degree. Mr. Wise requested ten (10) days to file a motion for a new trial, and his motion dated August 13, 2018 was subsequently timely filed. Having considered the matters raised in the motion, reflected upon the testimony and evidence presented at trial, and considered the applicable law, the Court denies Mr. Eubanks' motion for the following reasons:

- (A) Concerning Mr. Eubanks' request for a continuance so that the I-Phone he supplied to the State shortly before trial could be examined by the State, the Court stands by its earlier ruling on this issue. First, the grounds raised in the motion for a new trial relate only to collateral issues. Second, Mr. Eubanks could have had the phone examined himself. Third, the primary and most damning evidence against Mr. Eubanks at trial was the shifting narrative and explanation he provided to the investigators. Therefore, the State's not examining the phone purportedly belonging to Mr. Eubanks, which was provided to the State only a few days before trial, was of minimal consequence in this case.
- (B) Concerning the scope of Mr. Eubanks' cross examination as permitted by the Court, the Court found the line of questioning to be relevant and material to the issues in this case, and the Court stands by the reasoning placed on the record at trial. Similarly,

the evidence of the victim suffering from PTSD was relevant and admissible under accepted case law.

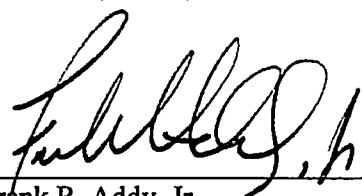
- (C) Concerning the Court's failure to excuse Juror Bailey shortly after the trial began, the Court inquired of whether the juror could remain fair and impartial despite his limited contact with the victim's family. The Court was satisfied with the juror's assurances that he would judge the case fairly based upon the law and the evidence. Clearly, the juror's prior one-time business transaction with a member of the victim's family was extremely limited in scope and did not warrant the Court removing him from the jury. Furthermore, because the Court subsequently had to remove Juror #16, Ms. Blackstock, from the jury due to the Defense not providing a full list of their witnesses, the number of jurors would have dropped to eleven (11) had the Court previously removed Juror Bailey, thereby likely necessitating a mistrial.
- (D) Concerning Juror Bailey's being Facebook friends with the grandmother of a State's witness and with Investigator Hunnicutt,¹ there are several observations which the Court wishes to make. At the beginning of the trial, the Court inquired of the jury panel whether they were related by blood or marriage or presently had any close business or social relationship with the listed witnesses. First and most obviously, being a "Facebook" friend is not synonymous with a "close business or social relationship" or being related by blood or marriage. Second, as a practical matter, in smaller, more rural counties, selecting twelve (12) people who have absolutely no ties to any witnesses is virtually impossible. Put another way, smaller communities like Laurens are, by definition, more interconnected, and the Court's focus has to be on sitting a jury which is impartial despite any tenuous contact or relationships which may exist between a juror and a potential witness. Simply stated, the empaneling of an impartial jury was accomplished in this case. Third, to the extent existing case law may appear to require a court to engage in a post-trial evidentiary hearing when counsel subsequently learns of *any* relationship between a juror and a witness or a lawyer or a party, the Court makes the observation that such a reading of precedent may actually encourage the trial bar to be less than diligent in their investigation of

¹ The Court subsequently received affirmative confirmation via email from the Deputy Solicitor that Juror Bailey and Investigator Hunnicutt only became Facebook friends after the trial had concluded.

potential jurors.² For example, by intentionally neglecting to check juror social media accounts until after the trial has concluded, an attorney can say to the court with full candor that they only became aware of the relationship post-trial. In fact, the very eventuality complained of by Mr. Ethridge has occurred in several cases involving this jurist over the last couple of years.³ In short, Mr. Ethridge cannot complain of the fact that the Court refuses to conduct a post-trial hearing with Juror Bailey when his status as a Facebook friend of a witness' grandmother was so easily discoverable prior to trial. Furthermore, based upon the colloquy with Juror Bailey, the Court was fully satisfied with his ability to remain impartial in these proceedings. Accordingly, the Court finds no grounds exist to warrant conducting a post-trial hearing with Juror Bailey.

WHEREFORE, Mr. Eubanks' motion for a new trial is denied.

IT IS SO ORDERED.



Frank R. Addy, Jr.
Resident Judge, Eighth Judicial Circuit

September 11, 2018
Greenwood, South Carolina

² "[E]valuating the merits of a juror misconduct claim is a fact-intensive inquiry, which is most appropriately conducted *after a hearing*." McCoy v. State, 401 S.C. 363, 371, 737 S.E.2d 623, 628 (2013) (emphasis supplied).

³ In State v. Bennie Brown, a double homicide case tried by this jurist in July, 2016, one of Mr. Brown's attorneys moved for such a hearing to be conducted while the jury was actually deliberating. The ground in that case was that one of the juror's spouses was Facebook friends with the father of a State's witness. Despite the holding in McCoy which seems to require that the court conduct a hearing in *every* case where juror concealment of a relationship is alleged, allegations of slight or transient relationships, absent more, simply do not warrant a post-trial hearing with the juror in question.